against the State as well as against an individual, in a court of equity. *State of Iowa* v. *Livingston,* (Ia. 1914) 145 N. W. 91.

The early rule on this question seems to have been that laches is not imputable to the government, and it is not responsible for the laches of its officers. *United States* v. *Van Zandt,* 11 Wheat. 187, 6 L. ed. 450, failure to recall a paymaster for not rendering his vouchers for more than six months, as required by law; *United States* v. *Dallas etc. Road Co.,* 140 U. S. 632, 35 L. ed. 571, 11 Sup. Ct. 998, holding that laches cannot be set up against the government in suits brought to declare lands forfeited. In *United States* v. *Beebe,* 127 U. S. 338, where it was sought to set aside a patent for land obtained by fraud, it was said, "The principle that the United States are not bound by any statute of limitations or barred by any laches of their officers however gross, in a suit brought by them as a sovereign government to enforce a public right or assert a public interest, is established beyond all controversy or doubt." In *State of Iowa* v. *Des Moines,* 96 Iowa 534, the court recognized the rule of *United States* v. *Beebe,* but did not apply it, since the facts in the case did not bring it within that rule. The modern rule is laid down in *State of Iowa* v. *Carr,* 191 Fed. 257, to the effect that while mere delay does not either by laches or limitations, of itself constitute a bar to suits and claims of a state or the United States, yet when a sovereignty submits itself to the jurisdiction of a court of equity and prays its aid, its claims and rights are judiciable by every other principle and rule of equity applicable to the claims and rights of private persons under similar circumstances. This rule is to be applied in the light of *United States v. Beebe,* and if so applied, it would seem to be the only logical view which a court of equity could adopt.

EVIDENCE—ADMISSIBILITY OF DECLARATIONS BY SELLER TO PROVE FRAUDULENT SALE.—X Grain Company held a bill of lading issued on a car load of oats, and assigned the bill to plaintiff for value. Defendant claims under a creditor of the Grain Company who had attached the car subsequently to the assignment. To prove the assignment fraudulent defendant offered in evidence admissions made by the Grain Company in letters written after the transfer. *Held,* that the declarations of the assignor made after the assignment were inadmissible. *Collins County Grain Co.* v. *Andrews,* (Ark. 1914) 162 S. W. 1098.

In general, admissions of an assignor made before the assignment are competent against the assignee. But when it is sought to use such admissions to prove the transfer fraudulent, other questions arise. As fraud on the part of the vendor would not avoid the sale against a bona fide vendee, it has been held that the vendor's admissions are not competent against the latter. *Peters Miller Shoe Co.* v. *Casebeer,* 53 Mo. App. 640; *Tretzevant* v. *Courtney,* 23 La. Ann. 628; *Foster* v. *Hall,* 12 Pick. 89. They are, of course, admissible against the declarant. *Toms* v. *Whitmore,* 6 Wyo. 220; *Hollingshead* v. *Allen,* 17 Pa. St. 275; *Parker* v. *Marston,* 34 Me. 386. And the declarations may be made in the presence of the vendee, under such circumstances that they become in effect his own admissions, and available against him as

such. *Bender* v. *Kingman,* 62 Nebr. 469. Or when evidence is introduced connecting vendee with the fraud, admissions of the vendor made in accomplishment of the fraudulent scheme are then competent, and bind the vendee as a co-conspirator. WIGMORE, § 1086; *Cuyler* v. *McCartney,* 40 N. Y. 221. When the declarations are made subsequent to the transfer, they are of course not binding on the transferee as admissions of a privy in title. *Meyer* v. *Munroe,* 9 Idaho 46; *Hart* v. *Brierly,* 189 Mass. 598; *Walden* v. *Purvis,* 73 Cal. 518; *Myers* v. *Kinzie,* 26 Ill. 36; *Buckingham* v. *Tyler,* 74 Mich. 101. They may still be admissible in some jurisdictions however. As the bad faith of the vendor is one essential in proof that the transfer was fraudulent, his admissions may be introduced to show bad faith on his part, although the transaction will not be avoided until the fraud is brought home to the vendee. *Carnahan* v. *Wood,* 32 Tenn. 500; *Satterwhite* v. *Hicks,* 44 N. C. 105. On the other hand such evidence may be rejected entirely unless the collusion between vendor and vendee is established, and this is the general rule. *Abney* v. *Kingsland,* 10 Ala. 355; *Partelo* v. *Harris,* 26 Conn. 480.

EVIDENCE—NON-EXPERT'S OPINION AS TO MENTAL CAPACITY.—To prove that testator was of unsound mind at the time he executed his will, a non-expert witness was called who stated that in his opinion deceased was insane at the time in question. The trial court allowed witness to express his opinion without first detailing the data upon which it rested, and on appeal this was held error. *Whisner* v. *Whisner,* (Md. 1914) 89 Atl. 393.

The decision accords with the generally accepted rule. Lay witnesses are, in the great majority of jurisdictions, allowed to state whether in their opinion testator was sane or insane, but before so testifying they must detail as accurately as possible the facts and circumstances upon which they base their opinion. *Bryan* v. *Walton,* 20 Ga. 480; *State* v. *Cross,* 72 Conn. 722; *Armstrong* v. *State,* 30 Fla. 170; *Furlong* v. *Carraher,* 108 Ia. 492; *People* v. *Casey,* 124 Mich. 279; *Lamb* v. *Lynch,* 56 Nebr. 135; *Chickering* v. *Brooks,* 61 Vt. 554. This requirement has been frequently held inapplicable to medical experts; *Crockett* v. *Davis,* 81 Md. 134; WIGMORE, § 1922; and there is an exception to the rule in favor of attesting witnesses, who, although laymen, are allowed to give their opinion unaccompanied by the facts. The principal case recognizes this exception. The court says, "He was not an expert witness nor an attesting witness to the will and he did not fall within the rule which allows this class of witnesses to testify as to the mental capacity of the testator without first stating the facts and circumstances on which the opinion was formed." Such is the settled law in Maryland. *Berry Will Case,* 93 Md. 560; *Jones* v. *Collins,* 94 Md. 403; and the exception is generally recognized elsewhere; *McCurry* v. *Hooper,* 12 Ala. 827; *VanHuss* v. *Rainbolt,* 2 Coldw. (Tenn.) 141; *Lodge* v. *Lodge,* 2 Houst. (Del.) 418; *Hertrich* v. *Hertrich,* 114 Ia. 643; *Robinson* v. *Adams,* 62 Me. 369; *Titlow* v. *Titlow,* 54 Pa. St. 216; *Scott* v. *McKee,* 105 Ga. 256; even in states which exclude entirely the opinion of other lay witnesses. *Williams* v. *Spencer,* 150 Mass. 348. The attesting witness thus occupies an anomalous position, difficult, perhaps, to justify in reason, but firm-established by authority.